

रजिस्ट्रार नं० HP/13/SML/2002.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 18 जनवरी, 2003/28 पौष, 1924

हिमाचल प्रदेश सरकार

PANCHAYATI RAJ DEPARTMENT

ORDER

Shimla-9, the 2nd January, 2003

No. PCH-HA (2)-1/98-II-101.—Whereas a show cause notice of even number dated 26th July, 24th August, 16th September followed by another dated 21-11-2002 was issued to you to file reply and also to appear in person to show cause as to why your office should not be declared vacant under the provisions of sub-section-(2) of section 131 of the Himachal Pradesh Panchayati Raj Act, 1994 for gaining disqualification as provided under Section-122 (1) (c) of the Act,

And whereas besides filing reply to the show cause notice on 12-8-2002 you also sought opportunity of being heard in person to supplement your reply but ultimately appeared in person only on 23-12-2002.

And whereas, your reply as well as your arguments so made on 23-12-2002 and 24-12-2002 have been considered by the under signed.

3392-राजपत्र/2003-18-1-2003—1,382.

(3093)

मूल्य : 1 रुपया ।

(१०५३)

मूल्य : 1 रुपया ।

And whereas as per provisions as contained in section-122 (1) (c) of the Himachal Pradesh Panchayati Raj Act, 1994, it is provided as under :—

“if he has encroached upon any land belonging to or taken in lease or requisitioned by or on behalf of the State Government a Municipality, a Panchayat or a Co-operative Society unless a period of six years has elapsed since the date on which he is ejected therefrom or he ceased to be the encroacher”.

And whereas it is found that the Deputy Commissioner, Shimla in case No. 1/2002 titled Sh. Daulat Ram Vs. S. S. Banolita so filed against your election as Member Zila Parishad Ward No. 15 Ghond, Tehsil Theog, Distt. Shimla, Himachal Pradesh on 27-6-2002 under Section-122 (2) (ii) of the said Act has decided that you have gained disqualification as contained under Section-122 (1) (c) of the said Act to remain as Member Zila Parishad having encroached upon the Government land comprising Khasra No. 461/463/465/34/2 measuring 0-13 Biswas situated in Chak Janog Ghat, Tehsil Theog belonging to the Municipal Committee, Theog.

And whereas, even during in your personal hearing you failed to produce any document to prove that neither you are the encroacher nor you cease to be the encroacher on the said Government land. The plea that execution proceedings so culminated after finality of encroachment proceedings has been dismissed by the SDO (C) Theog on 13-4-2002 is sustainable because the order of Deputy Commissioner, Shimla is dated 27-6-2002 which as such has been passed subsequently. Therefore, this argument must have been considered by the Deputy Commissioner but not found legally sustainable. Further the SDO (C), Theog in its order dated 30-4-2002 admittedly dismissed the execution petition of Municipal Committee Theog but in the said order he had also directed that fresh amended petition be filed after re-verifying the facts. Hence, the findings over the issue of encroachment made by you on the Government land are still prevailing. Accordingly, the pleas raised by you after consideration are found not legally sustainable. Therefore, being encroacher over the said Government land you were not eligible to contest the election for Member, Zila Parishad Ward No. 15, Ghond, Tehsil Theog, Distt. Shimla, H. P. due to gaining disqualification as provided under Section-122 (1) (c) of the Act.

Therefore, I, J. P. Singh, Director Panchayati Raj in exercise of power vested in me under section-131 (2) of the H. P. Panchayati Raj Act, 1994 declare that Sh. S. S. Banolita Member Zila Parishad, Shimla Ward No. 15, Ghond, Tehsil Theog, Distt. Shimla ceases to be the member and the said ward. I consequently further declare the said ward vacant with immediate effect.

J. P. SINGH,
Director.